

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare-Khammam District – Revision Petition filed U/S 6 of A.P.S.A.L.T.R 1959 by Sri Bandi Ramanadham S/O Tirupathaiah & others R/O Pokalagudem (V) Chandragonda (M) against the Orders of the Agent to Government, Khammam in C.M.A No:18/98 dt:18-12-2001-Dismissed-Orders-Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms No:147

Dated:19-07-2008.

Read the following:

1. From Sri.T.L.K. Sharma, Council for the petitioner, Revision petition dated: 08-05-2002.
2. Govt Memo No: 6786/LTR-2/2002-1 Dated:19-06-2002 .
3. From Collector, Khammam Lr.No:F2/CMA-18/98 Dated: -05-2007.
4. Govt Memo No: 6786/LTR-2/2002 dated: 16-07-2007, 04-08-2007.

ORDER:

In the reference first read above Sri Bandi Ramanadham S/O Tirupathaiah has filed a Revision Petition before the Government against the Orders of the Agent to Government, Khammam in C.M.A No: 18/98 dated: 18-12-2001 in respect of lands admeasuring Acres 7.00 in survey No: 11/AA situated at Pokalagudem (V) Chandrugonda (M) of Khammam District .The main grounds of the Revision petition are as hereunder:

1. The petitioners are in peaceful possession and enjoyment of the property and that the schedule properties were purchased by their ancestors and the transaction are not hit by A.P.S.A.L.T.R, 1959 read with 1/1970. The original transaction by their family members was prior to the enactment as such any subsequent family settlements will not vitiate the original transaction as such the approach of the authorities is contrary to law and material evidence on record.
2. The impugned proceedings are not at all maintainable and barred by Resjudicata. As admittedly similar proceedings were initiated in respect of same land and the original authority had dropped all those proceedings as such now after a lapse of initiation of similar Proceedings is ex facie barred by Resjudicata.
3. The authorities ought to have seen that reopening the matter after a lapse of so many years is illegal, arbitrary and also violates Article 21 of Constitution of India and as held by various courts that repeated enquiries will affect the rights of the parties and amounting to harassment.
4. Since the transactions are prior to the enactment the agency courts are not having any jurisdiction and also it is not for the agency courts to scrutinize the validity of the agreement of sales as such the impugned proceedings are not sustainable.
5. The petitioners have raised so many grounds before the Agent to Government and Agent to Government has failed to appreciate nor recorded findings in this regard.
6. The Agent to Government ought to have seen that admittedly on the day of alleged transaction as referred in the order as recorded by the Agent to Government that unofficial respondent is not entitled for any benefit since the Lambadas were not included as tribals on the day of alleged transaction as such Agency court has no jurisdiction on the initiation of the proceedings.

2. The brief history of the case is that a case was initiated on the report of the Special Deputy Tahsildar (T.W) Palwancha as the suit scheduled land falls in the scheduled area. The Special Deputy Collector, Palwancha dropped the case, since the case was already decided for the same suit land further orders cannot be passed and withdrew the notice issued. Sri Islavath Ramulu and other sons of Islavath Bitcha filed petition on 13-02-1997 before the Special Deputy

Collector (T.W) stating that their father had not sold away the land in Survey No:11/AA , extent 7.00 Acres situated at Pokalagudem of Chandragonda (V) to Sri.Bandi Ramanadham& others but it was given to them as 'kowl' and filed a Xerox copy of the certificate issued to their grand father under Tenancy ACT 1950 by the then Tahsildar, Kothagudem and a copy of the order issued by the then Revenue Divisional Officer, Kothagudem in favour of Islavath Kotlya s/o Lalya. They have also filed copies of pahani extracts issued by Mandal Revenue Officer for the year 1969-70, 1978-79 and 1990-91 for the suit lands. They have further stated that Sri.Bandi Ramanadham is in no way concerned with the suit land but cultivated some land on crop share for a little while. The Special Deputy Collector (T.W) Palawancha in his proceedings in LTR Case No:444/97/Chg dated:11-07-1997 passed orders in favour of the Tribal Petitioner Aggrieved by the Orders of the lower court filed an appeal before the Agent to Government.

3. After examining the case, Agent to Government held that out of Acres 14.03 guntas in Survey No11A and Survey No: 11/AA Acres 7.00 which was registered vide document 1571/76 has to be taken into Government possession as the Non-tribals are not eligible to hold the land and liable for ejectment . This land cannot be restored to Lambadas as they are Non-tribals at the time of registration i.e 1976. Hence this land has to be assigned to eligible Tribals. The Non-tribals are eligible to hold only Acres 1.12 in Survey Nos:11 and Acres 1.12 in Survey No:69/AA. For the remaining land to an extent of Acres 5.31 available in Survey No:11 since there were no valid documents and no proof of sale by the Schedule Tribes (Lambadas) they are eligible to hold the land to that extent only . He has finally ordered to take possession of Acres 7.00 land in Survey No:11/AA duly ejecting the non-tribals and be assigned to eligible tribals as per Rules in force. Aggrieved by the Orders of the Agent to Government filed the present Revision Petition.

4. In the reference 3rd read above, the Agent to Government , Khammam was requested to furnish parawise remarks and case records and the same were furnished vide reference third read above. After examination of the parawise remarks and case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 24-07-2007 and after several adjournments, heard the case finally on 16-08-2007. Counsel for the petitioner was present. The arguments of the counsel were heard and the written arguments submitted by him were examined and observed that :

- i) As per revenue records, Sri Islavath Kotya is the pattedar of lands in

Sy.No.11A	0.11 gts.
Sy.No.11AA	13.32 gts.
Total extent is	13.43 gts. in Sy.No.11
& in Sy.No.69/AA	1.12 gts.
Total	Acs.14.54 gts. in Sy.Nos.11 & 69/AA
- ii) Out of acs.13.43 gts. in Sy.No.11A,AA, an extent of 1.12 gts. was sold by Islavath Bicha, Lalu, Balu sons of Kotya to Smt.Gajula Seetaravamma W/o Veeraiah leaving a balance of acs.12.31 gts. Similarly, the entire extent of acs.1.12 gts. in Sy.No.69A was also sold to Smt.Gajula Seetaravamma W/o Veeraiah. These two transactions were held under a registered document No.174/1969, dt. 10.4.1969 and hence do not attract the provisions of APSALTR 1/59 R/W 1/70 as the sale was between Non-tribes (i.e. Lambadas are treated as non-tribals before 27.7.1977 and Gajula Seetaravamma) before commencement of Regulation 1/70 w.e.f. 3.2.1970.
- iii) Subsequently, through registered sale deed No.1571/76, dt. 25.6.76 another extent of acs.7.00 in Sy.No.11/A,AA was sold by Islavath Bicha s/o Kotya to Sri Gajula Krishnamurthy S/o Veeraiah, which is after commencement of Regulation 1/70 w.e.f. 3.2.1970 as the transaction was between two non-tribals after 1/70 (Lambadas are treated as S.Ts. w.e.f. 27.7.1977). Thus, the transaction of ac.7.00 in Sy.No.11/A,AA was hit by LTR 1/59 R/W 1/70.
- iv) LR receipts were issued after 1977 and do not support transactions held previously.
- v) Verification of pahanies for the years 1965-66, 1968-69 and 1972-73 reveal that:

- a) entries related to Sy.No.11 were torn-off for the years 1968-69 to 1970-71
- b) In 1965-66 and 1968-69 for Sy.Nos.11A,11AA and 69AA Islavath Kotaiah was Pattedar and in 1969-70 to 1972-73 Islavath Bichya S/o Kotya was pattedar
- c) Gajula Lakshmaiah S/o Veeraiah & Seetaravamma is cultivator for the following periods:

Sy.No.69AA	1968-69 to 1972-73
Sy.No.11A - 0.11	1971-72
Sy.No.11A	1972-73 (kept blank)
Sy.No.11AA	1972-73
- vi) the names of other non-tribals viz., Bandi Ramanadham, Chinnamsetti Venkateswarlu are not found either in pattedar column or in cultivator column at any year upto 1972-73.

Therefore:

1. According to Registered Sale deed 174/1969 dated:10-04-1969 and pahanies relevant , possession of Sri Gajula Lakshmaiah in Survey No: 11/AA for an extent of Acres 1.12 guntas and Survey No: 69 AA for an extent of Acres 1.12 guntas is valid.
 2. According to the Registered sale deed 1571/76, dated:25-06-1976 the extent of acres7.00 in survey No:11A & 11/AA is hit by LTR 1/59 R/W 1/70 as the transaction took place between non-tribals
 3. for the remaining extent of Acres 5.31 gts in Survey No:11 there were no valid documents and no proof of sale by the Scheduled Tribes (Lambadas) and hence they are eligible to hold.
5. Government after careful examination of the case records finds no reason to interfere with the Orders of the Agent to Government , Khammam in C.M.A No:18/98 dated:18-12-2001 and the Revision Petition is dismissed accordingly.
6. The counsel for the petitioner is requested to inform his clients accordingly. The Collector, Khammam District /Additional Agent to Government, Khammam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V. NAGI REDDY,
PRL.SECRETARY TO GOVERNMENT**

To:

The Collector, Khammam District (w.e)
(with RPAD of the following Records)
Special Dy.Collector (T.W) Bhadrachalam,
LTR File No: 444/97/CHG,Containing pages CF: 56, NF:4 &
LTR File No: 725/95/CHG Containing pages CF: 144, NF: 12.
Agent to Government , CMA No: 18/98 CF: 182, IA/22/98 CF: 20,
IA/28/98 CF:16: CMA NO: 6/96 CF: 112, NF: 10.
The Project Officer, ITDA, Bhadrachalam.
The Special Deputy Collector(T.W), Bhadrachalam.
Sri T.L.K. Sharma, Advocate,
1-3-183/40/68/C/2, Gandhhinagar, Hyderabad.
Sri Bandi Ramanadham S/O Tirupathaiah
Pokalgudem(V) Chandragonda (M) Khammam District.
Sri Chinnamsetti Venkateswarlu
Pokalgudem(V) Chandragonda (M) Khammam District.
Sri Gazula Laxmaiah S/O Veeraiah
Pokalgudem(V) Chandragonda (M) Khammam District
Sri Islavat Ramulu S/O Bitchu,
Pokalgudem(V) Chandragonda (M) Khammam District

//FORWARDED BY ORDER//

SECTION OFFICER